

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

MARK AND ANGELA BENNETT,)	
Appellants)	
)	
v.)	CIVIL ACTION NO. 04-30158-MAP
)	
PHOEBE MORSE,)	
United States Trustee,)	
Appellee)	

MEMORANDUM REGARDING BANKRUPTCY APPEAL

June 3, 2005

PONSOR, U.S.D.J.

Francis Lafayette, counsel for the debtor/appellant, has brought this appeal challenging the bankruptcy judge's order of June 29, 2004 dismissing his untimely appeal of an earlier order issued on June 10, 2004. The appeal also challenges the bankruptcy judge's denial, on July 8, 2004, of Attorney Lafayette's motion to file a late appeal based upon excusable neglect.

The question before this court is whether the bankruptcy judge's rulings constituted an abuse of discretion. For the reasons set forth in greater detail orally at the hearing in this case, the court cannot find any evidence of an abuse of discretion in the record. Despite Attorney Lafayette's claim that illness prevented him from filing a timely notice of appeal, the record is undisputed that during the ten days that he had to file his appeal, he was able to file some

eighty-three other pleadings and even appear in court for hearings in five cases. In light of what Judge Boroff found to be Attorney Lafayette's troubled history in representing his clients, and his ability to handle other matters during the same period, it can hardly be said that the bankruptcy judge's rulings constituted an abuse of discretion.

For the foregoing reasons, the rulings of Judge Boroff are hereby AFFIRMED and this appeal is hereby ordered DISMISSED. This case can now be closed.

It is So Ordered.

/s/ Michael A. Ponsor
MICHAEL A. PONSOR
U. S. District Judge